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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**
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5 UNITED STATES OF AMERICA,
6 Plaintiff,
7 v.
8 MARKETTE TILLMAN,
9 Defendant.

Case No. 2:08-CR-000283-KJD-PAL

ORDER

10 Presently before the Court are Defendant's Motions to Appoint Counsel (#1080, 1081) and
11 Motion to Proceed *in forma pauperis* (#1082). An indigent petitioner seeking relief under 28 U.S.C.
12 § 2255 may move the court for appointment of representation to pursue that relief. 18 U.S.C. §
13 3006(A)(2)(B). The court has discretion to appoint counsel when the interest of justice so requires.
14 18 U.S.C. § 3006(A)(2). The interest of justice so requires where the complexities of the case are
15 such that denial of counsel would amount to a denial of due process. See Brown v. United States,
16 623 F.2d 54, 61 (9th Cir.1980).

17 Here, the Court has reviewed the documents and pleadings on file in this matter and finds that
18 appointment of counsel is not warranted. The issues raised in Defendant's Motions to Appoint
19 Counsel are not complex and Defendant has made no showing as to why denial of counsel would
20 amount to a denial of due process. Therefore, the Court finds that Defendant is not entitled to
21 counsel.

22 Further, Defendant is not required to file a motion to proceed *in forma pauperis* to file a
23 §2255 Motion because Defendant was indigent during the underlying proceedings leading to his
24 incarceration. See F.R.C.P. Rule 24(a) (3) ("A party who was permitted to proceed *in forma pauperis*
25 in the district-court action...may proceed on appeal *in forma pauperis* without further authorization.")

1 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motions to Appoint Counsel
2 (#1080, 1081) are **DENIED**;

3 **IT IS FURTHER ORDERED** that Defendant's Motion to Proceed *in forma pauperis*
4 (#1082) is **DENIED** as moot.

5 DATED this 2nd day of March 2016.

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Kent J. Dawson
United States District Judge